85-980

Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1985

ALAN ERNEST, NEXT FRIEND OF CHILDREN
UNBORN AND BORN ALIVE,
AND ALL OTHERS SIMILARLY SITUATED

PETITIONER

v.

UNITED STATES ATTORNEY FOR THE SOUTHERN
DISTRICT OF ALABAMA, AND THE ATTORNEY
GENERAL OF THE UNITED STATES

RESPONDENTS

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
ELEVENTH CIRCUIT

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QUESTIONS PRESENTED FOR REVIEW

1. In Roe v. Wade, 410 U.S. 113, this Court decreed deliberate killings to be "liberty" which the American people had democratically defined to be "murder."

Does this Court have the power to decree "MASS MURDER IS LIBERTY," or is Roe v. Wade void?

2. In Roe v. Wade, this Court fabricated evidence to infer that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn."

Does this Court have the power to fabricate evidence to infer that the lives of victims are not protected by the U.S. Constitution, or is Roe v. Wade void?

3. In Roe v. Wade, this Court first decreed it "liberty" to kill the unborn, (before it even looked to see if the lives of the unborn were protected by the Constitution), then it placed the burden on the unborn to prove with "assurance" that their lives were protected by the Constitution.

May this Court use this burden of proof to infer that the lives of victims are not protected by the U.S. Constitution, or is Roe v. Wade void?

4. The victims herein were not convicted of crime by any jury. They are being killed only because of this Court's definition that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn." Yet this Court maintains its killings by refusing to allow counsel to prove that the Court's definition is false, and that the universal words "any person" do include the unborn.

May the Court maintain the killing of millions of victims by simply refusing to hear truth, or is Roe v. Wade void?

5. The evidence shows that due process of law has compelled this Court to overrule Roe v. Wade by implication.

Absent satisfactory explanation of the evidence by this Court, must not lower courts treat Roe v. Wade as void?

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OPINION BELOW

The Court of Appeals' opinion is included in Appendix 3. The District Court's opinion is included in Appendix 2.

JURISDICTION OF THIS COURT

1. The decree to be reviewed was made and entered on August 8, 1985. Appendix 3.

2. The petition for rehearing was denied on September 12, 1985. Appendix 5.

3. This court has jurisdiction under 28 U.S.C. § 1254 (1).

CONSTITUTIONAL PROVISIONS INVOLVED

1. Fourteenth Amendment: "Nor shall any state deprive any person of life ... without due process of law."

2. Fifth Amendment: "nor shall any person ... be deprived of life ... without due process of law."

STATEMENT OF THE CASE

District Court jurisdiction was based on habeas corpus, 28 U.S.C. § 2241, and also 28 U.S.C. § 1331.

The purpose of the petition was to compel truth to work in the U.S. Supreme Court.

The petition alleged that the unborn were being criminally killed by Roe v. Wade, 410 U.S. 113, in violation of the Constitution and laws of the United States; due process of law had compelled the U.S. Supreme Court to admit it; but the Supreme Court was maintaining the killings by conspiring to keep truth from working in all courts.

The petition did not ask a U.S. District Court to overrule the U.S. Supreme Court. This was a false issue invented by the courts below to give their defiance of their legal duty some color of law. 1

1/ The court of appeals asserted that "The district court was without authority to overrule Roe v. Wade... So are we." This misstates the issues in the district court; it was not even an issue raised on appeal.

Count 1 alleged that due process of law had compelled the U.S. Supreme Court to admit that Roe v. Wade was void.[2]

Count 2 alleged that "the ends of justice" prohibited the district court from accepting Roe v. Wade as valid law until the U.S. Supreme Court satisfactorily explained the constitutional questions.

For example, the petition alleged that the U.S. Supreme Court had decreed deliberate killings to be "liberty," which were defined by statutory law to be "murder." In plainest terms, the Supreme Court decreed: "MASS MURDER IS LIBERTY."

And the petition alleged that the Supreme Court was maintaining these killings by conspiring to keep truth from working in its Court, and all courts.

The victims being killed, on whose

2./ This legal issue is described on page 50, infra. The judges did not explain how these facts, unrivaled in world history, could be consistent with Roe v. Wade being valid. Rather, they just ignored the facts.

behalf application was made, were not convicted of crime by a jury. Rather, the victims were being put to death under a construction of the U.S. Constitution made by the U.S. Supreme Court. Millions of victims are being put to death in a dispute over the meaning of words.[3]

The judges below did not deny that the Supreme Court is maintaining the killings by refusing to hear objections that its definition is false and murderous.

The petition alleged that the District Court could not follow the decree "MASS MURDER IS LIBERTY," until the Supreme Court satisfactorily explained how its decree was consistent with the U.S. Constitution.

The courts below accepted as true the allegation that the U.S. Supreme Court had

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3./ In Roe v. Wade, this Court implied that the universal terms "any person" [which on their face include the unborn, as everyone else] do not include the unborn. The evidence herein proves this implication to be not just wrong, but murderous.

decreed "MASS MURDER IS LIBERTY," as well as the allegations about the procedures used by the Supreme Court to maintain the Roe v. Wade killings by keeping truth from working in its Court.[4]

The District Court ruled that it was obligated to blindly obey the U.S. Supreme Court without question, no matter how misguided it appeared to be, and regardless of the allegations or evidence in a petition for writ of habeas corpus. And the Court of Appeals affirmed.

Since merely changing the names of the victims would not change their principle,

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4./ The trial court had to accept as true all the uncontradicted facts alleged in the complaint. Boddie v. Connecticut, 401 U.S. 371. The complaint alleged that the Supreme Court had decreed deliberate killings to be "liberty" which had been defined by statutes to be "murder." This fact was not contradicted. And the procedures, used by this Court year after year to maintain the killings by keeping truth from working in its Court, were also uncontradicted. A court would have to take judicial notice of these facts anyhow, since they are indisputable facts of public record.

the judges below ruled that even if the Supreme Court had decreed it "liberty" to kill Jews, they must blindly obey.

The U.S. Supreme Court was accused of mass murder in the U.S. District Court, and the U.S. Court of Appeals. But, while the victims were being killed, all the judges below ruled that they must blindly obey the judicial superiors accused of mass murder in their court.

The judges below steadfastly ignored the authority which proved their position to be false. The habeas corpus statute imposes a legal duty on a U.S. District Court to reopen a determination of any court of the United States, which by express statutory definition includes "the Supreme Court of the United States," if "the ends of justice" demand. And this Court ruled that habeas corpus empowers a District Court to test restraints "by whatever authority imposed." The judges below just ignored this authority.

And the judges below ignored the warning of Chief Justice John Marshall that:

(1) judges who "close their eyes on the Constitution" and "condemn to death those victims whom the Constitution endeavors to preserve" are guilty of "crime"; and

(2) judges swear to support the U.S. Constitution as "the supreme law of the land," and if the U.S. Supreme Court usurped jurisdiction not given, it would be "treason to the Constitution."

The judges below ruled that even if the Supreme Court did usurp jurisdiction not given, and condemned to death millions of victims whom the Constitution endeavored to preserve, they must place the Supreme Court above habeas corpus accountability and blindly obey "treason to the Constitution" as the "supreme law of the land."

The judges below did not contradict the authority on criminal law which showed that if the judges followed the Roe v. Wade decree "MASS MURDER IS LIBERTY," but made a

mistake of law, they could be prosecuted for complicity in mass murder, and be sentenced to death.[5]

To a man, the judges below chose to take part in a national scheme to kill little children in violation of criminal statutes, and chose to deliberately hazard the death penalty, to blindly support the decree "MASS MURDER IS LIBERTY," rather than to merely ask the Supreme Court to explain how its decree "MASS MURDER IS LIBERTY" is consistent with the U.S. Constitution.

Despite warning that they were doing what the Nazi judges did, the judges below made no attempt to show any difference between their doctrine of blind obedience, and the Nazi judges' doctrine of blind obedience to "the supreme judge," which the Nuremberg Court condemned as criminal.[6]

5./ The uncontradicted authority is outlined on page 59, note 10, infra.

6./ This uncontradicted comparison is outlined on page 22, note 3, infra.

In his novel, "1984," Orwell described how a tyranny defrauded its subjects into submission with the "doublethink" slogan, "FREEDOM IS SLAVERY." While Orwell's science fiction may appear improbable, the U.S. Supreme Court has defrauded the United States into submission with the ultimate falsehood, "MASS MURDER IS LIBERTY."

Despite warning that they would be guilty of mass murder, the judges below ruled that they must blindly obey the decree "MASS MURDER IS LIBERTY" without asking even one single question.

The judges below are now added to the list of judges accused of mass murder.[7]

7./ The judges, whose names are listed in the Appendix A-9, infra, are accused of complicity in a national scheme of criminal extermination, including mass murder, in violation of the Constitution and laws of the United States, and of the States.

This accusation is intended as an official complaint, made in court, pursuant to the Constitution and laws of the United States. If this Court can neither prove the charges to be false, nor allow the criminal law to prosecute, then the world can see that the

Thus, the U.S. Supreme Court maintains its decree "MASS MURDER IS LIBERTY": it refuses to allow truth to work in its Court; and even though warned that they will be guilty of mass murder, the lower judges blindly obey without question.[8]

In any event, the issue of blind obedience is not involved here.

This is now an attack on the validity of Roe v. Wade, 410 U.S. 113 (1973), made directly in the U.S. Supreme Court.

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allegations are true, but our courts are too corrupt to oppose judges who commit mass murder under guise of law.

8./ The Court of Appeals cited several cases in which judges had blindly obeyed the decree "MASS MURDER IS LIBERTY," and were accused of mass murder in the U.S. Supreme Court, along with the Supreme Court. The court below knew that no court of the United States had proved those charges to be false; yet it cited this as authority that it too must blindly obey the decree "MASS MURDER IS LIBERTY." It is reminiscent of one Nazi judge citing another Nazi judge as authority that he too must blindly obey "the supreme judge."

REASONS FOR GRANTING THE WRIT

I.

ROE v. WADE IS VOID, BECAUSE THIS COURT DECREED KILLINGS TO BE "LIBERTY" WHICH HAD BEEN DEMOCRATICALLY DEFINED TO BE "MURDER," AND THUS DECREED "MASS MURDER IS LIBERTY." "THE SUPREME JUDGE" OF NAZI GERMANY ALSO DECREED MASS MURDER TO BE LEGAL.

In Roe v. Wade, 410 U.S. 113, this Court decreed deliberate killings to be "liberty" which had been defined by statutory law to be "murder" since long before adoption of the Fourteenth Amendment.[1]

1./ When the Fourteenth Amendment was adopted, an abortion was murder if the child was "born alive." And a child could be "born alive" long before viability.

A. The English Common Law

The English common law, as stated in the works of Coke, (3 Inst. 50), Hawkins, (1 Hawkins Ch. 13, s. 16) and Blackstone, (4 Bl. Com. 198) defined an abortion, in which a "quick" child died after being "born alive," to be "murder."

Thus, under the common law, an abortion of an unviable child, a child too immature to survive outside the womb, who died after being born alive, was "so horrible an offense" and "this is murder." 3 Inst. 50.

Regina v. West, 2 C & K 784 (1848) followed Coke, Hawkins, and Blackstone, and ruled that an abortion was murder if the child

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In 1857, the American Medical Association began a two year study of all the abortion laws in the United States. The 1859 report stated the law of murder throughout the United States, as follows:

> "If a person, intending to procure abortion, does an act which causes the child to be born earlier than its natural time, and therefore in a state much less capable of living, and it afterwards die in consequence of such premature exposure, the person who by this misconduct brings the child into the world, and puts it in a situation in which it cannot live, is guilty of murder." Reported in A.S. Taylor, infra, at 462. (emphasis added)

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was born alive, even though the child died because it was too immature to survive outside the womb.

The indictment for murder alleged that the defendant had inserted a "certain pin ... upward into the womb" of a pregnant woman for the purpose of producing the abortion of a "quick" child; and that this resulted in the child being "prematurely born and brought forth alive from and out of the womb." Regina v. West, 2 C & K at 784-85. The child died shortly afterward. A "medical witness" had testified:

"[I]t was a healthy child; but that, being born at that period of gestation, it was impossible that it could live any

Yet, in 1973, this is the very killing which the U.S. Supreme Court decreed to be "liberty."

In plainest terms, the U.S. Supreme Court decreed: "MASS MURDER IS LIBERTY."

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considerable length of time separated from the womb of the mother. It was incapable of maintaining a separate and independent existence." Regina v. West, 2 C & K at 786.

The judge, relying on Coke and Blackstone, instructed the jury that if the child were "born alive," the abortion was murder, even though the child were not viable:

"The prisoner is charged with murder; and the means stated are, that the prisoner caused the premature delivery of the witness Hensen, by using some instrument for the purpose of procuring abortion; and that the child so prematurely born was, in consequence of its premature birth, so weak that it died.... I am of opinion (and I direct you in point of law), that if a person intending to procure abortion does an act which causes the child to be born so much earlier than the natural time, that it is born in a state much less capable of living, and afterwards dies in consequence of its exposure to the external world, the person who by her misconduct so brings the child into the world, and puts it thereby in a situation in which it cannot live, is guilty of murder." Regina v. West, 2 C & K at 788.

The case of Regina v. West, supra, was

Many people would be astonished to learn that this case for the unborn is the same case they would have to present for themselves if their own right to life were challenged in a federal court.

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cited by the leading English writers as the correct statement of the law of murder. See, 1 J.F. Archbold, A Complete Treatise on Criminal Procedure, Pleading and Evidence 783 (Waterman Am. ed. 7th ed. 1860); 1 W.O. Russell, A Treatise on Crimes and Misdemeanors 671-672 (4th ed. 1865); A.S. Taylor, A Manual of Medical Jurisprudence 516 (Penrose Am. ed. 6th ed. 1866). An abortion which resulted in an unviable child being born alive was murder.

B. THE AMERICAN LAW OF MURDER IN 1868

The common law is the dictionary for the state and federal homicide statutes; American courts used it to construe the meaning of their murder statutes. Hamilton v. United States, 26 App. D.C. 382 (1905); Clarke v. State, 117 Ala. 1 (1898).

By the time the Fourteenth Amendment was adopted in 1868, American legal authorities had specifically cited Regina v. West, supra, as the correct statement of the law of murder.

As Wharton explained the law in his

For example, take almost any group of persons, such as the insane, or invalids, or Jews. Suppose it were claimed in federal court that it is "liberty" to deliberately kill members of these groups, as well as the unborn.

What factual, non-argumentative evidence

Treatise on the Law of Homicide in the United States 93 (1855):

"If a person intending to procure abortion, does an act which causes a child to be born so much earlier than the natural time, that it is born in a state much less capable of living, and afterwards dies, in consequence of its exposure to the external world, the person who by this misconduct, so brings the child into the world, and puts it thereby in a situation in which it cannot live, is guilty of murder."

American authorities agreed that this was the correct statement of the law of murder. 2 J.P. Bishop, Commentaries on the Criminal Law 365 (4th ed. 1868); A.S. Taylor, Manual of Medical Jurisprudence 462, 517 (Penrose Am. ed. 6th ed. 1866). This was the uncontradicted view in the United States when the Fourteenth Amendment was adopted.

C. THE LAW OF MURDER AND THE MEANING OF THE FOURTEENTH AMENDMENT

If the people who framed and adopted the Fourteenth Amendment had condemned the taking of a crying infant from its mother's

could be found to establish their right to life under the U.S. Constitution?

As the case for the unborn shows, it would do no good to object that no one ever heard of a "liberty" to deliberately kill the insane, or invalids, or Jews - or to object that such killings had thereto been defined as criminal.

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womb so it would die, as murder, then it is certain that they did not intend to exclude the lives of these children from the protection of the Fourteenth Amendment so it would be "liberty" to deliberately kill them with impunity from criminal statutes.

If the people who framed and adopted the Amendment had condemned the deliberate killing of Jews to be murder, it is certain that they did not intend to exclude Jews from the protection of the Constitution so it would be "liberty" to deliberately kill Jews with impunity from criminal statutes. Changing the names of the victims does not change the legal result.

But by seizing upon viability, the Supreme Court decreed the same killing to be "liberty" which the American people had universally defined to be "murder" when the Amendment was adopted. It is a naked decree without any investigation whatever into the law of murder. In its ignorance, the Court decreed: "MASS MURDER IS LIBERTY."

Since the universal words "any person" in

And the Fifth and Fourteenth Amendments merely state that they protect the life of "any person." So, as with the unborn, the Amendments do not expressly refer to the insane, or invalids, or Jews; and their legislative histories do not appear to specifically refer to the insane, or invalids, or Jews.

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the Fourteenth Amendment must include all persons whose lives were protected by the law of murder when the Amendment was adopted, the lives of these children were specifically guaranteed by the Amendment. And since personhood under the Constitution does not just fade away with time, like some magic disappearing ink, then the lives of these children are still protected by the Fourteenth Amendment. Roe v. Wade is void.

D. THE HYSTEROTOMY ABORTION UNDER ROE v. WADE

A common way to perform abortions under Roe v. Wade is by hysterotomy. Commonwealth v. Edelin, 359 N.E. 2d 4 (Mass. 1976). A hysterotomy is essentially a caesarean, in which a live but unviable child is taken from the womb and left to die. HEARINGS ON THE PROPOSED CONSTITUTIONAL AMENDMENTS ON ABORTION, BEFORE THE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS OF THE COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES,

As with the unborn, the murder laws don't expressly refer to the insane, or invalids, or Jews; and their legislative histories, to the extent they have any, do not appear to specifically refer to these groups.

The principle in the Declaration of

94th Cong., 2d Sess., Ser. 46, Part 1, at 391 (1976).

As established by medical testimony at these 1976 House abortion hearings, "With few exceptions, babies aborted by this method will all move, will all breathe, and some will cry.... Almost all were born alive." Id., at 397.

When the Fourteenth Amendment was adopted, these hysterotomy abortions were murder.

There are about 140,000 second stage abortion each year under Roe v. Wade. The Washington Post, April 26, 1985, page A11. All common second stage abortion methods can result in a child being born alive. When the Fourteenth Amendment was adopted, those abortions were murder.

F. CONCLUSION

Is a government of laws founded upon evidence, or the mere naked decrees of men holding office for life?

Since the U.S. Constitution is "the supreme law of the land," and the evidence proves indisputably that the lives of these children are protected by the U.S. Constitution, Roe v. Wade is void.

Independence, that all people are "created" equal, and endowed with an "unalienable" right to "life", having been sneered out of court in Roe v. Wade, now provides no assurance for anyone. The Court so perverted the Declaration of Independence as to amount to just this: "ALL MEN ARE CREATED EQUAL, EXCEPT THOSE CREATED TO BE MURDERED FOR THE CONVENIENCE OF OTHERS."

So, what factual, non-argumentative evidence is there for the insane, or invalids, or Jews to protect themselves from a judicial decree that it is "liberty" to deliberately kill them with impunity from criminal statutes?

The case for the unborn is the case for many others; it is this same body of factual evidence which many people must ultimately rely upon to establish that their right to life is protected by the U.S. Constitution.

If the people who framed and adopted the

Fourteenth Amendment had condemned the deliberate killing of Jews to be "murder," then it is certain that they did not intend to exclude the lives of Jews from the protection of the U.S. Constitution so it would be "liberty" to deliberately kill Jews with impunity from criminal statutes.

And merely changing the names of the victims would not change this conclusion.

Since the people who framed and adopted the Fourteenth Amendment had condemned the taking of a crying infant, whether viable or not, from its mother's womb so it might die, to be "murder," it is certain that the framers did not intend the Amendment to create a "liberty" to deliberately kill these children with impunity from criminal statutes. It is certain that the lives of these children are protected by the U.S. Constitution.

Since the right to life protected by the Constitution does not just disappear with

time, as whitewash weathers off an aging fence, it is certain that the lives of these children are still protected by the U.S. Constitution. And since the Constitution is the "supreme law of the land," it is certain that Roe v. Wade is void.

If the Court had decreed it "liberty" to deliberately kill Jews, it would rightly be condemned as murder. Judges may have more sympathy for other victims, but changing the names of the victims will not change the legal result. Lack of sympathy for the victim has never been a defense to murder.

In his novel, "1984," Orwell described how a tyranny defrauded its subjects into obedience with the "doublethink" slogan "FREEDOM IS SLAVERY." Although this science fiction appears improbable, the U.S. Supreme Court has defrauded the United States into obedience with the ultimate falsehood: "MASS MURDER IS LIBERTY."

Abraham Lincoln ridiculed the Dred Scott decision by reducing it to its plainest

terms: "That if any one man, choose to enslave another, no third man shall be allowed to object."[2] In Roe v. Wade the Court invented the ultimate fraud: "That if any one man, choose to murder another, no third man shall be allowed to object."

The U.S. Supreme Court has Hitler-like asserted to legalize mass murder. By changing the names of the victims, the Court has duplicated the decree of "the supreme judge" of Nazi Germany.[3]

2./ 2 Collected Works of Abraham Lincoln 462 (Basler ed. 1953). In Dred Scott v. Sanford, 60 U.S. (19 How.) 393, 451 (1857), the U.S. Supreme Court held that the word "person," as used in the Constitution, did not include Negroes. While the Court did not assert a "liberty" to deliberately kill Negroes, the Court did rule that "the right to property in a slave is distinctly and expressly affirmed in the Constitution," and Congress could not prohibit slavery in the federal territories.

3./ The Nuremberg court described how Hitler was "the supreme judge" of Nazi Germany. United States v. Altstoetter, 3 Trials of War Criminals Before the Nuernberg Military Tribunals 1011 (1951). The "supreme judge" decreed deliberate killings to be legal which had been defined by statute to be criminal. At Nuremberg,

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When judges decree "MASS MURDER IS LIBERTY"; and "That if any one man, choose to murder another, no third man shall be allowed to object"; and "ALL MEN ARE CREATED EQUAL, EXCEPT THOSE CREATED TO BE MURDERED FOR THE CONVENIENCE OF OTHERS"; then it cannot be pretended that judges obey the U.S. Constitution. The human mind cannot conceive a more lawless decree.

Since the U.S. Constitution is "the supreme law of the land," and the lives of these children are indisputably protected by the Constitution, Roe v. Wade is void.

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the Nazi judges claimed that they could not be held accountable for complicity in extermination and murder, since they had acted within the authority of the decrees of "the supreme judge." United States v. Altstoetter, supra, 983-85. But the Court held, "The dagger of the assassin was concealed beneath the robe of the jurist." United States v. Altstoetter, supra, 985.

By changing the name of the victims, the Supreme Court has duplicated the decree of "the supreme judge" of Nazi Germany. But changing the name of the victims will not change the legal result. The dagger of the assassin has been concealed beneath the robe of the jurist. Roe v. Wade is murder.

II.

ROE v. WADE IS VOID BECAUSE THE COURT USED FALSE EVIDENCE, AND UNCONSTITUTIONAL BURDENS OF PROOF, TO INFER THAT "THE WORD 'PERSON,' AS USED IN THE FOURTEENTH AMENDMENT, DOES NOT INCLUDE THE UNBORN." THE UNIVERSAL WORDS "ANY PERSON," AS USED IN THE CONSTITUTION, DO INCLUDE THE UNBORN.

A.

THE SUPREME COURT ADMITTED THAT IF THE UNIVERSAL WORDS "ANY PERSON" INCLUDED THE UNBORN, THE ALLEGED "LIBERTY" TO KILL THE UNBORN "OF COURSE, COLLAPSES."

The Court admitted that if the unborn were "a 'person,' within the language and meaning of the Fourteenth Amendment," then the case for a "liberty" to kill the unborn, as claimed in Roe v. Wade, "of course, collapses, for the fetus' right to life would then be guaranteed specifically by the Amendment." Roe v. Wade, 410 U.S. at 156-157.

B.

THE UNIVERSAL WORDS "ANY PERSON" MAKE NO DISTINCTION BETWEEN BORN AND UNBORN LIFE, AND ON THEIR FACE INCLUDE THE UNBORN, AS EVERYONE ELSE.

The words of the Fourteenth Amendment ("nor shall any state deprive any person of life ... without due process of law") are

"universal in their application, to all persons ... without regard to any differences." Yick Wo v. Hopkins, 118 U.S. 356, 369 (1886). The universal words "any person" make no distinction between born and unborn persons, and on their face admit of no exceptions whatever. Thus, on their face, the universal words "any person" include the unborn, as everyone else.

C.

THE RULINGS OF CHIEF JUSTICE MARSHALL SHOW THAT THE COURT MUST SATISFY THE HEAVIEST BURDEN OF PROOF TO IMPLY AN EXCEPTION TO THE UNIVERSAL WORDS "ANY PERSON" SO MILLIONS OF VICTIMS CAN BE KILLED WITH IMPUNITY FROM CRIMINAL STATUTES.

The holdings of Chief Justice John Marshall prove that the Supreme Court has no lawful power to imply an exception to universal terms, such as "any person," unless:

1. the Court can show that "the absurdity and injustice of applying the provision to the case, would be so monstrous, that all mankind would, without hesitation, unite in

rejecting the application";[1] and

2. the Court can prove that "had this particular case been suggested [to the framers], the language would have been so varied, as to exclude it, or it would have been made a special exception."[2]

The Supreme Court of West Germany used this long-established rule to hold that the universal words, "Everybody... has the right to life," did include the unborn.[3]

1./ Sturges v. Crowninshield, 4 Wheat. 122, 203 (1819). Before the Court can exclude the unborn from the universal words "any person," so they can be deliberately killed with impunity from criminal statutes, the Court must prove that including the unborn within the universal terms "any person" would be "so monstrous, that all mankind would, without hesitation, unite in rejecting the application."

2./ Dartmouth College v. Woodward, 4 Wheat. 518, 644 (1819). The Court had to prove that if the case of the unborn had been suggested to the Framers, they would have changed the Amendment to read: "Nor shall any state deprive any person, except unborn persons, of life ... without due process of law."

3./ In 1975, the Supreme Court of West Germany ruled that the universal words in its Constitution, "Everybody had the right

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The Court bore an extraordinary burden of proof to imply an exception to the universal terms "any person" so millions of persons could be deliberately killed with impunity from criminal statutes.[4]

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to life," did include the unborn, and that "Abortion is an act of homicide," and the state had a "duty ... to protect unborn life." The court based its holding on the the universal word "Everybody":

"The right to live is guaranteed to everybody who is 'alive.' No distinction can be made among the several stages of developing life before birth, or between prenatal and postnatal life. 'Everybody' ... means every 'living person,'... therefore 'everybody' in this sense also includes unborn human beings." Translation in R.A. Destro, Abortion and the Constitution: The Need For A Life Protective Amendment, 63 Cal. L. Rev. 1250, 1342, 1348-49 (1975).

This is the correct rule of construction, and its correct application.

4./ The truth of this extraordinary burden can be demonstrated by applying it to various cases. Before the Court could imply an exception to the universal terms "any person," so that Jews could be deliberately killed with impunity from criminal laws, the Court would have to prove that "the absurdity and injustice" of including Jews within the universal terms "any person" would be "so monstrous, that all mankind would, without hesitation, unite in

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D.

THE SUPREME COURT FABRICATED FALSE EVIDENCE TO INFER THAT "THE WORD PERSON, AS USED IN THE FOURTEENTH AMENDMENT, DOES NOT INCLUDE THE UNBORN."

The people who framed and adopted the Fourteenth Amendment had already democratically defined the killing of the unborn to be a crime. The Supreme Court knew it could not imply an exception to the universal words "any person" in the Constitution in order to decree "MASS EXTERMINATION, DEMOCRATICALLY DEFINED TO BE CRIMINAL, IS LIBERTY."

So the Supreme Court fabricated evidence to make it appear that those 19th century abortion statutes were not intended

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rejecting the application." Sturges v. Crowninshield, supra. And the Court must prove that if the case of the Jews had been suggested to the framers of the Fourteenth Amendment, "the language would have been so varied, as to exclude it." Dartmouth College v. Woodward, supra. The framers would have changed the Amendment to read: "No state shall deprive any person, except Jews, of life without due process of law."

This same burden of proof applies to one and all, including the unborn.

to protect the lives of the unborn. Roe v. Wade is based on false evidence.[5]

5./ SUMMARY OF FALSE EVIDENCE
When the Fourteenth Amendment was adopted in 1868, over three-fourths of the ratifying states had already enacted criminal statutes which made abortion at any stage of gestation a crime unless it were necessary to save the life of the mother or child. Within a few years, these statutes were universal.

In those few states still controlled by the common law on abortion, it is not possible to state with any assurance that the law was any different than in those states with abortion statutes. Some state supreme courts had ruled that the common law made abortion a crime throughout gestation. Mills v. Comm. 13 Pa. 631 (1850); State v. Slagle, 83 N.C. 544 (1880); State v. Reed, 45 Ark. 333 (1885). And those state supreme courts which ruled that abortion prior to quickening was not a common law crime were immediately overruled by their legislatures which made abortion at any stage of pregnancy a crime. Comm. v. Parker, 50 Mass. 263 (1845), was immediately overruled by Mass. Acts & Resolves ch. 27 (1845). State v. Cooper, 22 N.J.L. 52 (1849), was immediately overruled by N.J. Laws at 266 (1849). Abrahams v. Foshee, 3 Iowa 274 (1856) was overruled by the next legislature, Iowa Rev. Laws, tit. XXIII, ch. 165. art. 2, sec. 4221 (1860).

Any theory of a "liberty" to deliberately kill the unborn faced an impossible contradiction: How was it possible that the people who adopted the Fourteenth Amendment had enacted criminal statutes to

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The purpose of the falsification was to make it appear that this nation had always deemed abortion to be "liberty," and not crime. The Supreme Court perpetrated the

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protect the lives of the unborn, but at the same time, without a single word of explanation, intended to imply an exception to the universal terms "any person" so there would be a "liberty" to deliberately kill the unborn with impunity from their criminal statutes? This absurd contradiction wrecks Roe v. Wade.

To resolve this fatal contradiction, the Supreme Court fabricated the hypothesis that when the criminal abortion statutes were first enacted, the laws were not intended to protect the unborn life, but were only intended to protect the mother. This hypothesis was falsely fabricated and used as follows:

A.

The Supreme Court first asserted, "When most criminal abortion laws were first enacted, the procedure was a hazardous one for the woman." Roe v. Wade, 410 U.S. at 148. This is asserted as fact.

The only authority cited by the Supreme Court to prove this assertion of fact was a 20th century medical history book, Haagensen and LLoyd, A Hundred Years of Medicine 19 (1943), cited in Roe v. Wade, supra. at 148 n. 43. But, this book merely described the hazards of major surgery in general prior to Lister's discovery of antiseptics. The book did not even mention the abortion operation.

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Orwellian crime of falsifying the history of the United States to make criminal extermination appear to be "liberty."

If the Court had decreed it "liberty" to deliberately kill Jews, and fabricated evidence to make it appear that the American people had always deemed it liberty, and not crime, to kill Jews, then it would rightly be condemned as murder. Judges might have greater sympathy for other victims, but changing the name of the victims will not change the legal result.

The 19th Century obstetric authorities throughout the Western world prove the Court's assertion of fact to be false.

These 19th century obstetric authorities, based on their own experience in performing abortions, and from hundreds of cases reported from around the world, declared in their obstetric textbooks that the abortion operation, the operation of artificially evacuating the fetus from the womb, was "perfectly safe" to the mother, 2 T. Denman, M.D., An Introduction to the Practice of Midwifery 96 (1802) (English physician); or "experience has proved that the dangers of the operation are reduced to a small matter," A.L.M. Velpeau, M.D., A Complete Treatise on Midwifery 530 (4th

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The lives of the unborn must be protected by the Fourteenth Amendment. The framers used the universal terms "any person," without any exceptions. And no exception may be implied. The people had already enacted criminal statutes to protect the

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American ed. 1852); or "to the mother there is very little danger." H.L. Hodge, M.D., The Principles and Practice of Obstetrics 293 (1864)(American physician). The 19th century obstetric authorities prove the Supreme Court's assertion of fact to be false.

The Supreme Court never revealed the "hazardous" abortion "procedure" to which it was referring. Actually, the 19th century physicians generally used the ancient method: "the membranes of the ovum are punctured," which permitted "the discharge of the waters," which induced the "action of the uterus," which resulted in the expulsion of the fetus from the womb. 2 Denman, supra, at 99. One 19th century physician traced this operation back almost 2000 years. F. Ramsbotham, M.D., The Principles and Practice of Obstetric Medicine 724 (4th ed. 1856).

Consequently, the 19th century physicians were generally using an ancient abortion procedure which they described as not hazardous to the life of the woman.

The Supreme Court did not examine even one single 19th century obstetric textbook. And the medical textbooks prove its assertion

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lives of the unborn. No court can imply an exception to the universal terms "any person" to decree: "MASS EXTERMINATION, DEMOCRATICALLY DEFINED TO BE CRIMINAL, IS LIBERTY." So the universal words "any person," as used in the Fourteenth Amendment, do include the unborn.

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of fact, "When most criminal abortion laws were first enacted, the procedure was a hazardous one for the woman," to be false.

Since abortion was not dangerous to the life of the mother, the only motivating purpose the abortion statutes could have had was to protect the lives of the unborn from destruction by abortion, even safe abortions by physicians. Had it been the purpose of the legislators to only protect the mother, they would have only required abortions to be performed by physicians, which were known all over the western world to be safe to the mother.

B.

The Supreme Court next asserted: "Abortion mortality was high." Roe v. Wade, 410 U.S. at 149. This is asserted as fact.

The Supreme Court asserted "Abortion mortality was high" without any authority to support it. It is a naked assertion. The 19th century obstetric authorities prove this assertion of fact to be false. The medical authorities expressly asserted that the abortion operation was not hazardous to the life of the mother. (continued next page)

E.

THE SUPREME COURT ALSO REVERSED THE BURDENS OF PROOF AND PERSUASION DESCRIBED BY CHIEF JUSTICE JOHN MARSHALL.

Instead of placing the burden on the advocates of the killings to prove that including the unborn within the universal terms "any person" would "be so monstrous,

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The purpose of this assertion is to go beyond the mere theory that abortion was hazardous to the mother, and imply that the carnage was so great as to call for legislation to protect mothers from the medical profession.

But the obstetric texts prove the Court's assertion, "Abortion mortality was high," to be a false statement of fact.

C.

Upon these two false assertions of fact, the Court falsely infers that "a State's real concern in enacting a criminal abortion law was to protect the pregnant woman, that is, to restrain her from submitting to a procedure that placed her life in serious jeopardy." Roe v. Wade, 410 U.S. at 149. This is a false inference, drawn from false assertions of fact.

Moreover, the 19th century treatises on criminal law state that these criminal abortion laws were intended to protect the lives of the unborn. 2 F. Wharton, A Treatise on the Criminal Law of the United States 200-203 (7th ed. 1874). There is none to the contrary. If the purpose of

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that all mankind would, without hesitation, unite in rejecting the application," the Court unconstitutionally reversed the burdens of proof and persuasion. The Court

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these laws had been to protect the mother, and not the child, these writers would certainly have noted it.

Since abortions by physicians were known all over the western world to be safe to the mother, the motivating purpose of these abortion laws could only have been to protect the lives of unborn children from destruction from abortions. That legislatures prohibited safe abortions by physicians, despite the great danger to the mother from abortions by criminals, shows their great respect for unborn life.

D.

From the false inference that the criminal abortion laws were not intended to protect the lives of the unborn, the Court falsely inferred that, likewise, the framers of the Fourteenth Amendment did not intend it to protect the lives of the unborn, "that the word 'person,' as used in the Fourteenth Amendment, does not include the unborn." Roe v. Wade, 410 U.S. at 158. This false conclusion is drawn from a false inference which is drawn from false facts.

Conclusion

The Court bore the burden of proving that the absurdity and injustice of including the unborn within the universal words "any person" would be "so monstrous, that all mankind would, without hesitation, unite in rejecting the application." Sturges v.

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placed the burden on the unborn to prove with "assurance" (which means to make certain and put beyond doubt) that they were persons within the universal words terms "any person," or the unborn would be excluded from the terms "any person" so they could be deliberately killed with impunity from criminal statutes.

The Court reversed the burdens of proof

Crowninshield, supra. And the Court had to prove that if the case of the unborn had been presented to the framers and adopters of the Fourteenth Amendment, "the language would have been so varied, as to exclude it." Dartmouth College v. Woodward, supra.

But, the Court could not cite even one 19th century authority that expressly agreed with its conclusion that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn," much less one who asserted that there was a "liberty" to deliberately kill the unborn with impunity from criminal statutes.

The legal history demonstrates that the people did intend the Amendment to protect the unborn: they used universal language most appropriate for the purpose; and, the people had already enacted criminal abortion laws to protect the unborn in fact. The universal words "any person," as used in the Amendment, must include the unborn.

in the following manner:

First, the Court declared a "liberty" to deliberately kill the unborn with impunity from criminal statutes.[6]

Second, subsequently, the Court looked to see if the lives of the unborn were protected by the Fourteenth Amendment.[7]

Third, the purpose of first decreeing a "liberty" to deliberately kill the unborn, before the Court even looked to see if the lives of the unborn were protected by the Constitution, was to impose the "compelling state interest" test on the unborn. This placed a very heavy burden on the unborn

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6./ Roe v. Wade, 410 U.S. at 153.

7./ Roe v. Wade, 410 U.S. at 156-157. The Court assumed the very thing which was to be proved by evidence. By the Court's own admission, if the lives of the unborn were protected by the Fourteenth Amendment, then the alleged "liberty" to kill the unborn "of course, collapses." **But, the Court decreed a "liberty" to kill the unborn, before it even looked to see if their lives were protected by the Constitution.** It is analogous to a court finding an accused to be guilty before it heard the evidence.

to prove that their right to life was protected by the Constitution.[8]

Fourth, the Court stated that the evidence did not prove "with any assurance" that the lives of the unborn were protected by the U.S. Constitution.[9] This confirms that the Court placed the burden on the unborn to prove with "assurance" that their lives are protected by the Constitution.

Finally, the Court ruled that the unborn had not met their burden of proof and the unborn could be deliberately killed with impunity from criminal statutes.

This process is analogous to a court first adjudging the accused in a criminal

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8./ Roe v. Wade, 410 U.S. at 156. As its compelling state interest, Texas claimed that the lives of the unborn were protected by the Fourteenth Amendment, and that the purpose of their abortion statute was to protect the lives of the unborn. Thus, a heavy burden of proof was placed on the defenders of the abortion statute to prove that the universal words "any person," as used in the Fourteenth Amendment, do include the unborn.

9./ Roe v. Wade, 410 U.S. at 157.

case to be guilty, before it even heard the evidence, then placing the burden on the accused to prove himself innocent beyond a reasonable doubt, or be hanged.

If the Court first decreed a "liberty" to kill Jews, and then placed the burden on the Jews to prove with "assurance" that their lives were protected by the Constitution, it would rightly be condemned as murder. Judges may have more sympathy for other victims, but changing the name of the victims will not change the legal result.

Rather, under the rulings of Chief Justice Marshall, the burden was on the Court to prove with "assurance" that the unborn were not included within the universal terms "any person," or they would be included. Under this burden, the words "any person" do include the unborn.

F.

THE UNIVERSAL WORDS "ANY PERSON," AS USED IN THE FIFTH AND FOURTEENTH AMENDMENTS, DO INCLUDE THE UNBORN. THIS IS INDISPUTABLE.

The evidence for the unborn is far

stronger than for other groups which the Court has judicially recognized to be included within the terms "any person."[10] The U.S. Supreme Court has defied the universal words "any person" in the Fourteenth Amendment, and their spirit,[11]

10./ The Court was so sure that "corporations" were included within the universal terms "any person" that it forbade any oral argument to the contrary. Santa Clara v. So. Pac. RR, 118 U.S. 394, 396 (1886). And the Court held that "strangers and aliens" were included within the terms "any person" by merely observing: "These provisions are universal in their application." Yick Wo v. Hopkins, supra, at 369. No evidence whatever was required.

11./ The uncontradicted scientific medical evidence in Roe v. Wade showed that the unborn child is "alive"; the heart begins "pulsations at 24 days"; and "brain waves have been noted at 43 days."

The Court has recognized that, while the Declaration of Independence is not law in itself, yet it is "the thought and the spirit, and it is always safe to read the letter of the Constitution in the spirit of the Declaration of Independence." Gulf, Colo. & S. Fe Ry v. Ellis, 165 U.S. 150, 159-160 (1996).

The undisputed medical evidence proved that the unborn child has been "created," it was thus endowed with an "unalienable" right to "life." So the universal terms

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and the plain intention of its framers and adopters,[12] and condemned to death millions of victims whom the Constitution of the United States endeavors to preserve.

The evidence proves that the universal words "any person," as used in the Fourteenth Amendment, do include the unborn.

And the universal words "any person," as used in the Fifth Amendment, must also

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"any person," as used in the Amendment, must also include the unborn. The right to life of the unborn is guaranteed, not just by the spirit of the Declaration of Independence, but by the express words of the U.S. Constitution.

Roe v. Wade corrupted the Declaration of Independence to read: "All men are created equal,- except those created to be killed for the convenience of others."

12./ The people who adopted the Fourteenth Amendment not only used universal words (that not "any person," could be deprived of life without due process of law) without any distinction between born or unborn life, but those people had already enacted criminal abortion statutes to protect the lives of the unborn. No court can imply an exception to the universal terms "any person" to decree: "MASS EXTERMINATION, DEMOCRATICALLY DEFINED TO BE CRIMINAL, IS LIBERTY."

include the unborn.[13] And the unborn are also protected by 18 U.S.C. § 242.[14]

Since the U.S. Constitution is "the supreme law of the land," and its universal terms "any person" do indisputably include the unborn, it is also indisputable that Roe v. Wade is void.

13./ As the Court reasoned in Bolling v. Sharpe, 347 U.S. 497 (1954), if the Fourteenth Amendment prohibits racially segregated schools in the States, then it would be "unthinkable" that the Fifth Amendment permitted them in the District of Columbia. By the same reasoning, since the killings are prohibited in the states by the Fourteenth Amendment, it is "unthinkable" that the Fifth Amendment could permit them in the District of Columbia. Regardless of the evidence relevant to the Fifth Amendment, the purpose of a subsequent amendment is to amend. Hunter v. Underwood, __ U.S. __, 85 L Ed 2d 222, 231 (1985).

14./ 18 U.S.C. § 242 protects all persons whose lives are guarded by the Fourteenth Amendment. Screws v. United States, 325 U.S. 91, 98 (1944). Since the universal words "any person," as used in the Fourteenth Amendment, do include the unborn, their lives are also protected by 18 U.S.C. § 242. "Even judges ... could be punished criminally for willful deprivations of constitutional rights on the strength of 18 U.S.C. § 242." Imbler v. Pachtman, 424 U.S. 409 (1976).

III.

ROE v. WADE IS VOID BECAUSE THE SUPREME COURT USED UNCONSTITUTIONAL AND CRIMINAL PROCEDURES TO EFFECT AND MAINTAIN THE ROE v. WADE KILLINGS.

The Supreme Court willfully used unconstitutional procedures to effect the Roe v. Wade killings.[1]

1./ The Court willfully used the following unconstitutional procedures, despite objection, to effect Roe v. Wade:

A. Denial of Assistance of Counsel

Counsel did not especially represent the unborn in the District Court in Roe v. Wade. And the Supreme Court denied a request by an original party to allow counsel to especially represent the unborn in the Supreme Court. Thus, counsel did not represent the unborn at any stage of the original proceedings.

B. Denial of Prior Notice

The District Court did not even look to see if the lives of the unborn were protected by the U.S. Constitution; this question was argued for the first time after Roe v. Wade reached the Supreme Court. And the Supreme Court gave the parties no prior notice of the constitutional standards, or the burdens of proof, or the evidence, which the Court used to infer that the lives of the unborn were not protected by the Constitution. The first time the parties had notice was when Roe v. Wade was published, and the victims were already condemned to death. An original party objected that it lacked the prior notice needed to defend the unborn.

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And the Supreme Court subsequently decided many abortion cases on the merits, but, despite objection that the process was unconstitutional, willfully used unconstitutional procedures to maintain the Roe v. Wade killings:

1. The Supreme Court willfully refuses to allow retained (no cost to taxpayers)

C. Secret Evidentiary Proceedings
The Court used some secret evidentiary process, not open to the parties, to find evidence to infer that the lives of the unborn were not protected by the U.S. Constitution. An original party objected that it had not had opportunity to cross-examine the Court's evidence in a judicial proceeding.

D. Denial of Right to Cross-Examine
An original party asked permission to cross-examine the evidence which the Court used to infer that the lives of the unborn were not protected by the Constitution. But the Supreme Court would not allow its evidence to be cross-examined.

E. Denial of Right to Present Evidence
An original party asked permission to present evidence under the new constitutional standards which it had not seen before to show that the lives of the unborn are protected by the Constitution. But the Court refused to allow it. And the killings commenced.

counsel to represent the victims being killed and defend their right to life;[2]

2. The Supreme Court willfully refuses to allow its evidence in Roe v. Wade, which it used to infer that the lives of the unborn are not protected by the U.S. Constitution,

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2./ Some of the cases are: Colautti v. Franklin, 439 U.S. 379, motion to allow counsel to represent the unborn denied 437 U.S. 902; Anders v. Floyd, 440 U.S. 445, motion to allow counsel to represent the unborn denied 439 U.S. 890; Bellotti v. Baird, 443 U.S. 622, motion to allow counsel to represent the unborn denied 439 U.S. 1065; Ashcroft v. Freiman, affirmed 440 U.S. 941, motion to allow counsel to represent the unborn denied, 440 U.S. 941; United States v. Zbaraz, 448 U.S. 358, motion to allow counsel to represent the unborn denied 444 U.S. 1030; Harris v. McRae, 448 U.S. 297, motion to allow counsel to represent the unborn denied 445 U.S. 941; H.L. v. Matheson, 450 U.S. 398, motion to allow counsel to represent the unborn denied 445 U.S. 959; Simopoulos v. Virginia, __ U.S. __, 76 L Ed 2d 755, motion to allow counsel to represent the unborn denied 73 L Ed 2d 1364; Planned Parenthood of Kansas City v. Ashcroft, __ U.S.__, 76 L Ed 2d 733, motion to allow counsel to represent the unborn denied 73 L Ed 2d 1364; Akron Center for Reproductive Health v. Akron, 462 U.S. 416, motion to allow counsel to represent the unborn denied 73 L Ed 2d 1364.

to be confronted and cross-examined;[3]

3. The Supreme Court willfully refuses to allow evidence to be presented on behalf of the victims being killed to establish their right to life under the U.S. Constitution.[4]

The Supreme Court's own rulings on due process of law show these procedures to be unconstitutional.[5]

3./ See cases, supra note 2. The evidence in Roe v. Wade, used to infer that the lives of the unborn are not protected by the Constitution, has never been cross-examined, despite the charge that the Court used fabricated evidence.

4./ See cases, supra note 2.

5./ Even in civil proceedings, where crucial deprivations are threatened, such as loss of welfare, due process guarantees (1) prior notice of the factual and legal bases; (2) the right to be represented by counsel; (3) the right to confront and cross-examine adverse evidence; (4) the right to present evidence. Goldberg v. Kelly, 397 U.S. 254, 268-271 (1970); In Re Gault, 387 U.S. 1 (1967).

Could it be possible that procedures, which could not be used to deprive a mother of welfare, could be used to exclude her from the protection of the U.S. Constitution so that she could be deliberately killed with impunity from criminal statutes?

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Since the deprivation was willful, these procedures are also criminal.[6]

These are essentially the same procedures cited by the Nuremberg Court as part of the evidence to convict the Nazi judges of

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The Constitution would not permit any court to condemn even one single Jew to death in a criminal case, but deny any of these procedural rights. Then neither can any court condemn all Jews in the United States to death, but deny any of these procedural rights, by calling it a civil proceeding, and decreeing that the lives of Jews are not protected by the U.S. Constitution, and it is "liberty" to deliberately kill Jews with impunity from criminal statutes.

Any victim is entitled to all the procedural protections described in Goldberg v. Kelly, supra, before any court can decree that the victim's life is not protected by the U.S. Constitution, and the victim can be deliberately killed with impunity from criminal statutes. The rule for one is the rule for all.

6./ "Even judges ... could be punished criminally for willful deprivations of constitutional rights." Imbler v. Pachtman, 424 U.S. 409 (1976). The deprivation was "willful" because the Court repeatedly denied all these procedural rights in the teeth of the objection that the denial was unconstitutional and criminal. Thus the deprivation of these procedural rights was criminal.

complicity in extermination and murder.[7]

If the Supreme Court had used these procedures to decree it "liberty" to deliberately kill Jews, it would rightly be condemned as murder. While judges may have more sympathy for another category of victims, changing the names of the victims will not change the legal result.

Having decreed that "MASS MURDER IS LIBERTY," the Court now maintains the killings by criminally refusing to allow truth to work in its Court.

It is notorious that truth is not permitted to work in the proceedings in the U.S. Supreme Court, and that the Court

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7./ "In many instances they were denied the right to introduce evidence, to be confronted by witnesses against them, or to present witnesses in their own behalf. They were ... denied the right of counsel of their own choice, and occasionally denied the aid of any counsel... (T)he accused learned only a few moments before the trial of the nature of the alleged crime for which he was to be tried." United States v. Altstoetter, supra, at 1046-47 (1951).

falsifies history to achieve its ends.[8]

The Supreme Court has made a murderous mockery of due process of law.

The use of these procedures, to exclude millions of victims from the protection of the U.S. Constitution, so they can be deliberately killed with impunity from criminal statutes, is unconstitutional, and makes Roe v. Wade void.

8./ "The Court... has flouted the will of the framers and substituted an interpretation in flat contradiction of the original design .... Such conduct impels one to conclude that the Justices are become a law unto themselves. ... It perilously resembles ... Hitlerism." R. Berger, Government by Judiciary: The Transformation of the Fourteenth Amendment 408, 412 (Harvard Univ. Press 1977).

"Court had adjourned in the real world.... (T)hey [the Justices] began to invent a country suited to their purposes.... They have falsified the American past ... and no one in charge seems prepared to do anything about it." T. Landers, To A Traditionalist, Mr. Ron Sounds So Good, The Wall Street Journal, editorial page, December 27, 1984.

IV.

DUE PROCESS OF LAW HAS COMPELLED THE U.S. SUPREME COURT TO CONFESS IN COURT THAT IT IS GUILTY OF CRIMINAL E..TERMINATION, INCLUDING MASS MURDER, AND TO ADMIT THAT ROE v. WADE IS UNCONSTITUTIONAL AND VOID.

For the 89th time, the U.S. Supreme Court is accused in its own court with criminally exterminating millions of victims in violation of the U.S. Constitution, and 18 U.S.C. § 242.[1]

For the 65th time, the U.S. Supreme Court is accused in its own court with mass murder in violation of state and federal statutes;[2]

For the 69th time, the U.S. Supreme Court is accused in its own Court of using unconstitutional and criminal procedures to effect and maintain the Roe v. Wade killings.[3]

But, the U.S. Supreme Court has never denied the charges, much less attempted to

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1./ Charges based on evidence, supra p. 24.

2./ Charges based on evidence, supra p. 11.

3./ Charges based on evidence, supra p. 43.

prove the charges to be false.

These facts are unparalleled in the legal history of the world.

Under this Court's own rulings, its silence year after year, while the victims are being killed, is an admission that the charges are true.[4]

> "Failure to contest an assertion, however, is considered evidence of

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4./ Under "the tacit confession rule," McCormick on Evidence, § 161, 270, failure to deny a charge is admissible as a confession that the charge is true. Also 4 Wigmore, Evidence, § 1071-1072 (Chadborn rev. 1972). "Underlying the rule is the assumption that human nature prompts an innocent man to deny false accusations and consequently a failure to deny a particular accusation tends to prove belief in the truth of the accusation." McCormick, supra, § 161. The Supreme Court has consistently affirmed this rule. "(T)he Court has consistently recognized that ... silence in the face of accusation is a relevant fact.... Silence is often evidence of the most persuasive character." Baxter v. Palmigiano, 425 U.S. 308, 319 (1976). And the rule is ancient. As Socrates cross-examined at his trial 2400 years ago: "(Y)ou are silent, and have nothing to say. But is not this rather disgraceful, and a very considerable proof of what I was saying?" "I may assume that your silence gives consent." Apology in Plato 41, 45 (Jowett transl. 1942).

> acquiescence only if it would have been natural under the circumstances to object to the assertion in question." United States v. Hale, 422 U.S. 171, 176 (1975).

The circumstances leave no doubt that due process of law has compelled the U.S. Supreme Court to confess that the charges are true, and that Roe v. Wade is void.

First, the evidence makes it as clear as daylight why the Court is silent in the face of the charges: the charges are proved to be true.[5] No denial is possible.

Second, the charges were made in cases filed pursuant to the Constitution and laws of the United States. The judges had a legal duty to fully hear allegations that Roe v. Wade was wrongly decided:

> "(I)ts opinion upon the construction of the Constitution is always open to discussion when it is supposed to have been founded in error, and that its

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5./ The Supreme Court decreed killings to be "liberty" which had been defined by statutory law to be "murder." This is mere historical fact; no denial is possible. In plain terms, the Court decreed, "MASS MURDER IS LIBERTY."

judicial authority should hereafter depend altogether on the force of the reasoning by which it is supported." The Passenger Cases, 7 How. 282, 470 (1849).

If judges "close their eyes on the Constitution," and "condemn to death those victims whom the Constitution endeavors to preserve," it is a "crime."[6]

6./ Marbury v. Madison, 1 Cranch 137, 179-180 (1803). Chief Justice John Marshall wrote that for judges to swear to support the Constitution as the supreme law of the land, but then "close their eyes on the constitution," and "condemn to death those victims whom the Constitution endeavored to preserve" is worse than "solemn mockery," it is a "crime."

Chief Justice Marshall correctly stated the criminal law. Where there is an affirmative duty to act, the deliberate omission to do that duty, which results in death to others, can be prosecuted as homicide. Perkins, Criminal Law 604 (2nd ed. 1969).

The only Nazi to plea guilty at Nuremberg cited this law. When warned of Auschwitz, Speer wrote: "I did not investigate - for I did not want to know what was happening there.... [F]rom fear of discovering something which might have made me turn from my course, I closed my eyes." A. Speer, Inside the Third Reich 375-76 (1970). This "deliberate blindness" is complicity in criminal extermination.

Federal judges are guilty of crime when

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Third, the Court's steadfast silence, year after year, in the face of the scores of accusations that it is guilty of mass murder, is unparalleled in the legal history of the world; and it is the very circumstance which the Court itself has cited as making confession by silence more trustworthy.[7]

Fourth, not only has the Court's silence persisted in the face of repeated accusations, but it has persisted even in the teeth of warnings that, under its own

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they close their eyes, and permit victims to be killed, whom the Constitution endeavors to preserve. The Constitution imposes a legal duty on judges to fully hear and honestly decide allegations that victims are being exterminated in violation of the U.S. Constitution; and the criminal law punishes the violation of this duty.

7./ Concerning the Supreme Court's continuing silence year after year: "Silence gains more probative weight where it persists in the face of accusation, since it is assumed in such circumstances that the accused would be more likely than not to dispute an untrue accusation." United States v. Hale, 422 U.S. 171, 176 (1975).

rulings, its silence was being taken as an admission that the charges are true, and Roe v. Wade is void.[8]

Fifth, the charges described judicial corruption not surpassed in the history of the world, that:

(1) judges had criminally exterminated millions of children in violation of the Constitution and laws of the United States, and of the States;

(2) the United States was being ruled over by a tribunal of murderers which had proclaimed the most corrupt decree which the human mind could imagine: "MASS MURDER IS LIBERTY";

(3) due process of law had compelled the

8./ "THE U.S. SUPREME COURT HAS CONFESSED IN COURT TO GUILT OF CRIMINAL EXTERMINATION, INCLUDING MASS MURDER, AND THIS IS THE LEGAL EQUIVALENT OF THE EXPRESS OVERRULING OF ROE v. WADE." Amicus curiae brief by the Legal Defense Fund For Unborn Children, filed in Akron v. Akron Center for Reproductive Health, 462 U.S. 416 (1983).

judges to confess in their own court to guilt of mass murder; and

(4) the judges were maintaining their murders by conspiring to keep truth from working in all the courts of the United States.

Never in the legal history of the world was it more imperative to deny charges if they were untrue.

Judges, under solemn legal duty to uphold the law, are accused of mass murder in their own court year after year. The evidence is laid out in court. Little children are being killed. The killings violate criminal statutes. Pictures of the dead are shown to the judges. But year after year, the judges do not deny the charge, much less attempt to prove it false. The 2000 year old law of evidence, and the solemn legal duty imposed by a government of laws, condemn this silence as a confession that the charge is true,

and that Roe v. Wade is void.[9]

9./ Akron v. Akron Center for Reproductive Health, 462 U.S. 416 (1983), is an example of how due process of law has compelled the Supreme Court to confess to guilt of mass murder, and to admit that Roe v. Wade is void - despite the Court's conspiracy both to keep truth from working in its Court, and still defraud the lower courts into blindly obeying Roe v. Wade.

In Akron, supra, neither the parties, nor the amicus curiae brief by the U.S. government, asked the Court to overrule Roe v. Wade. This was done by the amicus curiae brief by the Legal Defense Fund for Unborn Children, as follows: "For the 52nd time, the U.S. Supreme Court is accused in its own court with mass murder ..."

And the amicus brief laid out the evidence. And it showed a photo of a dead victim. And the amicus brief informed the Supreme Court that its silence in the face of the charge would be taken as an admission that the charge was true, and Roe v. Wade was void: "THE U.S. SUPREME COURT HAS CONFESSED IN COURT TO GUILT OF CRIMINAL EXTERMINATION, INCLUDING MASS MURDER, AND THIS IS THE LEGAL EQUIVALENT OF THE EXPRESS OVERRULING OF ROE v. WADE."

But in Akron, supra, the Supreme Court responded to these arguments by saying:

> "And arguments continue to be made, in these cases as well, that we erred in interpreting the Constitution. Nonetheless, the doctrine of stare decisis, while perhaps never entirely persuasive on a constitutional question, is a doctrine that demands

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The immediate practical result is that due process of law has compelled the U.S. Supreme Court to admit that Roe v. Wade is a mistake of law. Truth has worked in the U.S. Supreme Court in the only manner in

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> respect in a society governed by the rule of law. We respect it today, and reaffirm Roe v. Wade."

Thus, the Court's response to the "arguments" that it was guilty of mass murder. If stare decisis is "never entirely persuasive on a constitutional question," even in normal cases, then it certainly carries no weight at all when judges try to hide behind stare decisis because they are accused of mass murder, and cannot prove the charge to be false. When a court rules that "respect in a society governed by the rule of law" requires the decree "MASS MURDER IS LIBERTY" to be obeyed without question, because the Court cannot deny that it is guilty of mass murder, it is the murderous mockery of "the rule of law." Although it cannot deny that it is guilty of mass murder, the Supreme Court supposes it can hide behind stare decisis and defraud the lower courts into obeying Roe v. Wade without question.

The "rule of law" will permit only one conclusion from such facts: the U.S. Supreme Court was met in court with the truth in Akron, supra, and due process of law compelled the court to admit, in the most emphatic manner which the human mind can imagine, that Roe v. Wade is void.

which it was permitted to work. Under our government of laws, the Supreme Court was met in court with the truth, and due process has compelled the Court to admit, in the most emphatic manner which the human mind can imagine, that Roe v. Wade is void.

Any judge who closes his eyes on these facts, unparalleled in legal history, and follows Roe v. Wade, knows he is guilty of complicity in extermination and murder in violation of the Constitution and laws of the United States, and of the States.[10]

The Constitution and laws of the United

10./ The Supreme Court asserted to legalize killings which had been defined as criminal by positive statutes. Since Roe v. Wade is a mistake of law, all the killings since 1973 can be criminally prosecuted.

The ex post facto provisions of the U.S. Constitution do not apply to judicial decisions which are a mistake of law. Ross v. Oregon, 227 U.S. 150, 161 (1912).

The general rule is that mistake of law is no excuse for breaking the law. R. Perkins, Criminal Law 920 (2d ed. 1969).

The limited affirmative defense of reasonable reliance on an official judicial

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States will permit only one conclusion to be drawn from these facts: the Supreme

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opinion, thereafter determined to be a mistake of law, does not apply to homicide cases. Model Penal Code, Tentative Draft No. 4, Comments Sec. 2.04, page 138; R. Perkins, Criminal Law 928 (2d ed. 1969).

Thus, the law applied at Nuremberg applies to this case. Obedience to the orders of judicial superiors is no excuse for complicity in murder. United States v. Altstoetter, supra, at 983-985. A mistake about the legality of orders of judicial superiors is no defense to murder.

The "supreme judge" of Nazi Germany decreed killings to be legal which had been criminal under statutory law. At Nuremberg, the Nazi judges claimed that they could not be held accountable for complicity in extermination and murder, because they were bound to obey the decrees of "the supreme judge." But the Nuremberg court rejected that defense. Obedience to superior judges is no defense in homicide cases. "The dagger of the assassin was concealed beneath the robe of the jurist." United States v. Altstoetter, supra, at 985.

It may be that the judges responsible for the Roe v. Wade murders did not believe that they were breaking the law. But, as Oliver Wendell Holmes wrote: "Ignorance of the law is no excuse for breaking it....It is no doubt true that there are many cases in which the criminal could not have known that he was breaking the law, but ... the lawmaker has determined to make men know and obey." O.W. Holmes, The Common Law 41 (paperback 1963).

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Court was met in court with the truth, and due process of law compelled it to admit, in the most emphatic manner which the human mind can imagine, that Roe v. Wade is unconstitutional and void.

Even if the Supreme Court held a gun to the head of a U.S. District Judge, and threatened instant death unless he obeyed Roe v. Wade, it would not be a defense to murder. As Blackstone explained it, "he ought rather to die himself than escape by the murder of an innocent." 4 Bl. Com. 30.

The law makes a mortal distinction between killing and not killing:

1. Any judge who stopped the Roe v. Wade killings, and made a mistake of law, could only be overruled on appeal;
2. But any judge who allows the killings to continue, despite the objection that the Supreme Court decreed "MASS MURDER IS LIBERTY," and makes a mistake of law, can be prosecuted for complicity in mass murder, and can be sentenced to death.

The law of capital murder is a hard school, where lessons are taught only one time, and mistakes of law are not forgiven.

Due process has compelled the Supreme Court to admit that Roe v. Wade is void. Any judge who ignores these facts, unparalleled in legal history, and chooses to take part in a national scheme to kill little children, in violation of criminal statutes, to support the decree "MASS MURDER IS LIBERTY," must deliberately hazard the death penalty.

The photo on the next page shows a second stage abortion by prostaglandin under Roe v. Wade. This can result in a child being born alive.[11] There are about 140,000 second stage abortions each year under Roe v. Wade.[12] Any procedure can result in a child born alive.[13]

If the child were born alive, this Court would be guilty of murder. If the child were born dead, this Court would be guilty of extermination under 18 U.S.C. § 242.

As the Court studies the face of its victim, let it contemplate that truth is working in this court, and the Court cannot stop it. Due process of law has compelled this Court to admit that Roe v. Wade is void, and thus to overrule Roe v. Wade.

11./ Floyd v. Anders, 440 F. Supp. 535, 538 (1977).

12./ Washington Post, April 26, 1985, A11.

13./ Jeffries and Edmonds, Abortion: The Dreaded Complication, The Philadelphia Inquirer, August 2, 1981.

CONCLUSION

This court has admitted that Roe v. Wade is void; now it must expressly overrule it.

Alan Ernest

Alan Ernest, Counsel

THE APPENDIX

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

Civil Action No.
84-1332-C

ALAN ERNEST, Next Friend
of Children Unborn and Born
Alive, etc., Plaintiffs

vs.

THE UNITED STATES ATTORNEY FOR
FOR THE SOUTHERN DISTRICT OF
ALABAMA, et al.,

FINAL JUDGMENT

It is ORDERED and ADJUDGED that this action be, and hereby is, DISMISSED because no justiciable case or controversy is presented and because the plaintiff lacks standing to maintain this action.

The defendants are entitled to recover of the plaintiffs their taxable costs.

DONE this 18 day of March, 1985.

/signed/ Edward R. Cox
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

Civil Action No.
84-1332-C

ALAN ERNEST, Next Friend
of Children Unborn and Born
Alive, etc., Plaintiffs

vs.

THE UNITED STATES ATTORNEY FOR
FOR THE SOUTHERN DISTRICT OF
ALABAMA, et al.,

MEMORANDUM OPINION

This case is before the court on the defendant's 12(b) motion to dismiss asserting, among other things, that no justiciable "case or controversy" is presented by this action, and that plaintiff lacks standing to maintain the action. The court is of the opinion that no justiciable case or controversy is presented by the action and that the plaintiff lacks standing to maintain the action. Accordingly, the court will by separate document enter final judgment dismissing the action.

DONE this 18 day of March, 1985.

/signed/ Edward R. Cox
United States District Judge

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

NO. 85-7287
Non-Argument Calendar

ALAN ERNEST, Next friend of Children Unborn and Born Alive, and all others similarly situated, Plaintiff-Appellant

versus

UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF ALABAMA and THE ATTORNEY GENERAL OF THE UNITED STATES, Defendants-Appellees

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Appeal from the United States District Court for the Southern district of Alabama

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August 8, 1985

Before ROONEY, HENDERSON AND HATCHETT, Circuit Judges.

Per Curiam:

Without deciding whether the plaintiff has standing or if the named defendants are proper for the relief sought, we affirm the district court's decision dismissing the compliant. The district court was without authority to overrule. Roe v. Wade, 410 U.S. 113 (1973). So are we. See Ernest, Next Friend of Unborn Child Roe, et al., v.

Carter, President of the United States, 429 U.S. 1092 (1977); See Ernest, Next Friend of Unborn Child Roe, et al., v. Carter, President of the United States, 434 U.S. 861 (1977); Ernest v. United States Court of Appeals for the District of Columbia Circuit, 434 U.S. 901 (1977); Ernest v. United States Court of Appeals for the District of Columbia Circuit, 444 U.S. 820 (1979); Ernest v. Sirica, United States District Judge, et al., 434 U.S. 963 (1977); Ernest v. Sirica, United States District Judge, et al., 444 U.S. 975(1979); Ernest v. Cohen, United States Attorney for the District of Maine, et al., 455 U.S. 985 (1982); Ernest v. Cohen, United States Attorney for the District of Maine, et al., 455 U.S. 985 (1982).

AFFIRMED

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

NO. 85-7287
Non-Argument Calendar

ALAN ERNEST, Next friend of Children Unborn and Born Alive, and all others similarly situated, Plaintiff-Appellant

versus

UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF ALABAMA and THE ATTORNEY GENERAL OF THE UNITED STATES, Defendants-Appellees

---

Appeal from the United States District Court for the Southern district of Alabama

---

(September 12, 1985)
ON PETITION FOR REHEARING AND SUGGESTION FOR REHEARING EN BANC

Before RONEY, HENDERSON AND HATCHETT, Circuit Judges

The Petition for rehearing is DENIED and no member of this panel nor other Judge in regular active service on this Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit rule 26), the Suggestion for Rehearing En Banc is DENIED.

The judges of the panel, having considered appellant's separate motions to recuse, have declined to recuse themselves from considering the petitions for rehearing.

ENTERED FOR THE COURT

/signed/ Paul H Rooney
United States Circuit Judge

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

NO. 85-7287
Non-Argument Calendar

ALAN ERNEST, Next friend of Children Unborn and Born Alive, and all others similarly situated, Plaintiff-Appellant

versus

UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF ALABAMA and THE ATTORNEY GENERAL OF THE UNITED STATES, Defendants-Appellees

---

Appeal from the United States District Court for the Southern district of Alabama

---

Before RONEY, HENDERSON and HATCHETT, Circuit Judges

JUDGMENT

This cause came on to be heard on the transcript of the record from the United States District Court for the Southern District of Alabama, and was taken under submission by the Court upon the record and briefs on file, pursuant to Circuit Rule 23;

ON CONSIDERATION WHEREOF, it is now hereby ordered and adjudged by this Court that

the judgment of the said District Court in this cause be and the same is hereby, AFFIRMED;

It is further ordered that plaintiff-appellant pay to defendants-appellees, the costs of appeal to be taxed by the Clerk of this Court.

Entered : August 8, 1985
For the Court: Spencer D. Mercer, Clerk
By: /signed/ deputy clerk

ISSUED AS A MANDATE: SEP 24 1985

APPENDIX TO STATEMENT OF THE CASE
NOTE 7, PAGE 9

U.S. DISTRICT JUDGES

Emmett R. Cox; Edward T. Gignoux; Harold H. Greene; Joseph C. Howard; Martin F. Loughlin; Robert Earl Maxwell; Louis F. Oberdorfer; Raymond J. Pettine; Aubrey E. Robinson, Jr.; John J. Sirica; James C. Turk; D. Dortch Warriner; Don J. Young.

U.S. CIRCUIT JUDGES

D.C. Circuit

David L. Bazelon; Carl McGowan; Roger Robb; George E. MacKinnon; Spotswood Robinson III; J. Skelly Wright; Edward A. Tamm; Malcolm R. Wilkey.

First Circuit

Levin H. Campbell; Frank M. Coffin; Hugh H. Bownes; Stephen G. Breyer.

Fourth Circuit

Harrison L. Winter; Donald S. Russell; H. Emory Widener, Jr.; Kenneth K. Hall; James D. Phillips, Jr.; Fracnis D. Murnaghan, Jr.; James M. Sprouse; Sam J. Ervin, II; Robert F. Chapman;

(continued on next page)

Eleventh Circuit

John C. Godbold; Paul H. Roney; Gerald B. Tjoflat; James C. Hill; Peter T. Fay; Robert S. Vance; Phyllis A. Kravitch; Frank M. Johnson, Jr.; Albert J. Henderson, Jr.; Joseph W. Hatchett; R. Lanier Anderson, III; Thomas A. Clark;

AND all the judges on the district courts in Roe v. Wade and Doe v. Bolton, who decreed a "liberty" to kill the unborn without any investigation whatever to determine if their lives were protected by the U.S. Constitution: Circuit Judges Morgan and Goldberg; District Judges Smith, Henderson, Hughes and Taylor.